

REMARKS/ARGUMENTS

The present Amendment is being filed in response to the final Official Action of September 16, 2008, and concurrent with a Request for Continued Examination (RCE). The Official Action continues to reject Claims 1-5, 7, 8, 10, 14-18, 20, 22, 23, 25, 29-33, 35, 37, 38, 40, 44-48, 50, 52, 53, 55 and 59 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0133923 to Watson et al. The Official Action also continues to reject Claims 6, 12, 13, 21, 27, 28, 36, 42, 43, 51, 57 and 58 under 35 U.S.C. § 103(a) as being unpatentable over Watson, in view of U.S. Patent Application Publication No. 2003/0066090 to Traw et al.; and reject the remaining claims, namely Claims 9, 11, 24, 26, 39, 41, 54 and 56, as being unpatentable over Watson, in view of U.S. Patent No. 7,020,893 to Connelly et al. As explained below, Applicants again respectfully submit that the claimed invention is patentably distinct from Watson, Traw and Connelly, taken individually or in any proper combination. In view of the remarks presented herein, Applicants respectfully request reconsideration and allowance of all of the pending claims of the present application. Alternatively, as the remarks presented herein do not raise any new issues or introduce any new matter, Applicants respectfully request entry of this Reply for purposes of narrowing the issues upon appeal.

A. Consideration of Previously-Submitted Information Disclosure Statement

Applicants again note that an initialed copy of the PTO Form 1449 that was submitted with Applicants' Information Disclosure Statement filed October 31, 2003, has not been returned to Applicants' representative. Accordingly, it is requested that an initialed copy of the Form 1449 be forwarded to the undersigned with the next communication from the PTO.

B. Claims 1-5, 7, 8, 10, 14-18, 20, 22, 23, 25, 29-33, 35, 37, 38, 40, 44-48, 50, 52, 53, 55 and 59 are Patentable

The final Official Action continues to reject Claims 1-5, 7, 8, 10, 14-18, 20, 22, 23, 25, 29-33, 35, 37, 38, 40, 44-48, 50, 52, 53, 55 and 59 as being anticipated by Watson. According to one aspect of the present invention, as reflected by amended independent Claim 1, a system is provided that includes a content source and a terminal. As recited, the content source includes a

continuity server configured to maintain one or more pieces of content and a schedule, where the schedule specifies at least one scheduled time for broadcast of the piece(s) of content by the content source, and the content source is configured to broadcast the piece(s) of content in accordance with the schedule. As also recited, the terminal is configured to store, in a memory, one or more pieces of pre-broadcast content comprising the same piece(s) of content maintained by the continuity server, where the content is stored before the scheduled time for broadcast of the same content. In this regard, the terminal is configured to access one or more pieces of pre-broadcast content from the memory no sooner than the scheduled time for broadcast of the same piece(s) of content, and thereafter present the accessed piece(s) of pre-broadcast content consistent with the scheduled time for broadcast of the same piece(s) of content by the content source.

I. Broadcast Schedule

Generally, in contrast to independent Claim 1, Watson (as well as Traw and Connelly) does not teach or suggest a system for providing broadcast content whereby a terminal is configured to store but not access pre-broadcast content before a scheduled time for broadcast of the same content by a content source, and is configured to present the pre-broadcast content consistent with that scheduled time. More particularly, in contrast to independent Claim 1, Watson (as well as Traw and Connelly) does not teach or suggest a system for providing broadcast content whereby a schedule includes a scheduled time for not only broadcasting the content by its source, but also constraining access to the same (pre-broadcast) content from memory of a terminal that previously stored the pre-broadcast content.

Again, Watson discloses a digital home movie library for an on-demand movie service. And in this regard, Watson may disclose a digital asset management system that schedules when a movie is to be transmitted to a set-top box. Nonetheless, Watson does not teach or suggest that a previously stored movie is accessed from memory of the set-top box in no sooner than a scheduled broadcast time of that movie, similar to the pre-broadcast content of amended independent Claim 1. Watson also discloses setting a start date at which time a transmitted movie may be accessed from the set-top box. Even given this disclosure, however, this start date

does not correspond to a scheduled time for broadcast of that movie, similar to the scheduled time of amended independent Claim 1.

In citing Watson for disclosing the recited schedule, the Official Action cites a passage of Watson disclosing that a movie may be transmitted to the set-top box several times to ensure that the movie is received by the set-top box in its entirety. Applicants respectfully submit, however, that repetitively transmitting a movie does not in fact correspond to a schedule specifying a scheduled time for broadcast of a movie, similar to the schedule of amended independent Claim 1. And moreover, repetitively transmitting a movie does not correspond to a schedule including a scheduled time for not only broadcasting the content by its source, but also constraining its access from memory of a terminal that previously stored the same content (as pre-broadcast content), also similar to amended independent Claim 1.

2. Access from Memory as Content Broadcast

In further contrast to amended independent Claim 1, Watson (as well as Traw and Connelly) does not teach or suggest a system for providing broadcast content, whereby a terminal receiving and storing (in memory) pre-broadcast content is configured to access that content (from memory), and present the content consistent with a scheduled time for broadcast of the same content by a content source. In asserting Watson discloses a similar feature of former independent Claim 1, the Official Action alleges that “A movie may arrive and be stored in the set-top box, however it may have a start date associated with it which does not allow it to be viewed until a later date, 0182; that means the users will be able to view the movie according to the schedule of the headend.” Official Action of Sep. 16, 2008, page 4. Even if Watson does disclose a start date specifying a date upon which a stored movie may be accessed, this start date does not have any relation to a scheduled time for broadcast of that same movie, similar to the timing of presenting content according to amended independent Claim 1. That is, amended independent Claim 1 recites a terminal presenting content (accessed from memory) consistent with the scheduled time for broadcast of the same content by a content source. And even if one could argue that Watson discloses a start date specifying presentation of a stored movie, Watson still does not teach or suggest that the movie is presented consistent with a scheduled broadcast

of that same movie by a content source.

Applicants therefore respectfully submit that amended independent Claim 1, and by dependency Claims 2-14, is patentably distinct from Watson. Applicants also respectfully submit that amended independent Claims 15, 30 and 45 recite subject matter similar to that of amended independent Claim 1, including the aforementioned schedule, and presenting content (accessed from memory) as that same content consistent with the scheduled time for broadcast of the same content by a content source. As such, Applicants respectfully submit that amended independent Claims 15, 30 and 45, and by dependency Claims 16-18, 20-29, 31-33, 35-44, 46-48 and 50-59, are also patentably distinct from Watson for at least the reasons given above with respect to independent Claim 1.

For at least the foregoing reasons, Applicants respectfully submit that the rejection of Claims 1-5, 7, 8, 10, 14-18, 20, 22, 23, 25, 29-33, 35, 37, 38, 40, 44-48, 50, 52, 53, 55 and 59 as being anticipated by Watson is overcome.

C. Claims 6, 12, 13, 21, 27, 28, 36, 42, 43, 51, 57 and 58 are Patentable

The Official Action rejects Claims 6, 12, 13, 21, 27, 28, 36, 42, 43, 51, 57 and 58 as being unpatentable over Watson, in view of Traw. As explained above, independent Claims 1, 15, 30 and 45, and by dependency Claims 2-14, 16-29, 31-44 and 46-59, are patentably distinct from Watson. Applicants respectfully submit that Traw does not cure the deficiencies of Watson. That is, even considering Traw, neither Watson nor Traw, taken individually or in any proper combination, teach or suggest the aforementioned schedule, and presenting content (accessed from memory) consistent with the scheduled time for broadcast of the same content, as per independent Claims 1, 15, 30 and 45. Applicants therefore respectfully submit that independent Claims 1, 15, 30 and 45, and by dependency Claims 2-14, 16-29, 31-44 and 46-59, are patentably distinct from Watson, in view of Traw.

For at least the foregoing reasons, Applicants submit that the rejection of Claims 6, 12, 13, 21, 27, 28, 36, 42, 43, 51, 57 and 58 as being unpatentable over Watson, in view of Traw, is overcome.

D. *Claims 9, 11, 24, 26, 39, 41, 54 and 56 are Patentable*

The Official Action rejects Claims 9, 11, 24, 26, 39, 41, 54 and 56 as being unpatentable over Watson, in view of Connelly. As explained above, independent Claims 1, 15, 30 and 45, and by dependency Claims 2-14, 16-29, 31-44 and 46-59, are patentably distinct from Watson. Applicants respectfully submit that Connelly does not cure the deficiencies of Watson. That is, even considering Connelly, neither Watson nor Connelly, taken individually or in any proper combination, teach or suggest the aforementioned schedule, and presenting content (accessed from memory) consistent with the scheduled time for broadcast of the same content, as per independent Claims 1, 15, 30 and 45. Applicants therefore respectfully submit that independent Claims 1, 15, 30 and 45, and by dependency Claims 2-14, 16-29, 31-44 and 46-59, are patentably distinct from Watson, in view of Connelly.

For at least the foregoing reasons, Applicants submit that the rejection of Claims 9, 11, 24, 26, 39, 41, 54 and 56 as being unpatentable over Watson, in view of Connelly, is overcome.

Application No.: 10/698,600
Amendment dated November 17, 2008
Reply to Official Action of September 16, 2008

CONCLUSION

In view of the remarks presented herein, Applicants respectfully submit that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicants' undersigned attorney in order to resolve any remaining issues. As explained above, no new matter or issues are raised by this Reply, and as such, Applicants alternatively respectfully request entry of this Reply for purposes of narrowing the issues upon appeal.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Andrew T. Spence
Registration No. 45,699

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111
LEGAL02/30963549v1

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON NOVEMBER 17, 2008.